

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,
V.

FILED
2013 FEB 28 P 3:34
RICHARD W. FLEMING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CR 08-237 EMC

DAVID NOSAL

DEFENDANT(S).

SECOND SUPERSEDING INDICTMENT

18 U.S.C. § 371;
18 U.S.C. §§ 1030 (a)(4) & 1030(c)(3)(A);
18 U.S.C. §§ 1832(a)(2) & 1832(a)(4);
18 U.S.C. §§ 1832(a)(3) & 1832(a)(4);
18 U.S.C. § 2

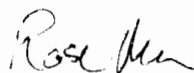
A true bill.



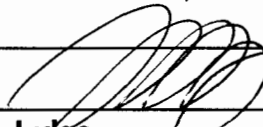
Foreman

Filed in open court this 28th day of

February, 2013



ROSE MAHER



Clerk

Maria Elena James
United States Chief Magistrate Judge

NO PROCESS Bail, \$

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☒ SUPERSEDING
OFFENSE CHARGED

See Attachment

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: See Attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

DAVID NOSAL

DISTRICT COURT NUMBER
CR 08-0237 EMC**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

FBI

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a pending case involving this same defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under
Name and Office of Person
Furnishing Information on this form

MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency
Name of Assistant U.S.
Attorney (if assigned)

Kyle F. Waldinger

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1)
- ☐
- If not detained give date any prior summons was served on above charges
-
- 2)
- ☐
- Is a Fugitive
-
- 3)
- ☐
- Is on Bail or Release from (show District)

IS IN CUSTODY

- 4)
- ☐
- On this charge
-
- 5)
- ☐
- On another conviction }
- ☐
- Federal
- ☐
- State
-
- 6)
- ☐
- Awaiting trial on other charges
-
- If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

Attachment to Penalty Sheet
United States v. David Nosal
CR 08-0237 EMC
Second Superseding Indictment

Offenses Charged

Count One: 18 U.S.C. § 371 – Conspiracy to Misappropriate, Receive, Possess, and Transmit Trade Secrets, Gain Unauthorized Access to a Protected Computer, and Traffic in a Password Allowing Unauthorized Access to a Protected Computer

Counts Two through Four: 18 U.S.C. §§ 1030(a)(4) & 1030(c)(3)(A) – Unauthorized Access to a Protected Computer with Intent to Defraud and Obtaining Something of Value

Count Five: 18 U.S.C. §§ 1832(a)(2) & 1832(a)(4) – Unauthorized Downloading, Copying, and Duplicating of Trade Secrets and Attempt

Count Six: 18 U.S.C. §§ 1832(a)(3) & 1832(a)(4) – Unauthorized Receipt and Possession of Stolen Trade Secrets and Attempt

Penalties

Count One: 5 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Counts Two through Four: 5 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Counts Five and Six: 10 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

MELINDA HAAG (CABN 132612)
United States Attorney

FILED
2013 FEB 28 P 3:34
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-0237 EMC
)	
Plaintiff,	)	<u>VIOLATIONS:</u> 18 U.S.C. § 371 – Conspiracy to
	)	Misappropriate, Receive, Possess, and Transmit
v.	)	Trade Secrets, Gain Unauthorized Access to a
	)	Protected Computer, and Traffic in a Password
	)	Allowing Unauthorized Access to a Protected
	)	Computer; 18 U.S.C. §§ 1030(a)(4) &
DAVID NOSAL,	)	1030(c)(3)(A) – Unauthorized Access to a
	)	Protected Computer with Intent to Defraud and
	)	Obtaining Something of Value; 18 U.S.C.
Defendant.	)	§§ 1832(a)(2) & 1832(a)(4) – Unauthorized
	)	Downloading, Copying, and Duplicating of Trade
	)	Secrets and Attempt; 18 U.S.C. §§ 1832(a)(3) &
	)	1832(a)(4) – Unauthorized Receipt and
	)	Possession of Stolen Trade Secrets and Attempt;
	)	18 U.S.C. § 2 – Aiding and Abetting
)	
	)	SAN FRANCISCO VENUE

SECOND SUPERSEDING INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Second Superseding Indictment:

Korn/Ferry International

1. Korn/Ferry International (“Korn/Ferry”) was an executive search firm headquartered in Los Angeles, California. Korn/Ferry also maintained a Silicon Valley office in

1 Redwood City, California, as well as a San Francisco office and other offices throughout the
2 United States and the world. Korn/Ferry was one of the leading providers of executive
3 recruitment services to businesses in the United States. As used herein, the terms “executive
4 search” and “executive recruitment” refer to searches to fill executive, board-of-director, and
5 similar high-level positions, as well as related and similar activities.

6 The Defendant

7 2. The defendant David Nosal was employed by Korn/Ferry in its Silicon Valley
8 office and elsewhere from approximately April 1996 until approximately October 2004. During
9 his tenure at Korn/Ferry, Nosal held a number of high-level positions, including Regional
10 Managing Director and Office Managing Director. Nosal planned to start a competing executive
11 search firm after terminating his employment with Korn/Ferry. However, under the terms of a
12 Separation and General Release Agreement and an Independent Contractor Agreement (referred
13 to collectively hereafter as the “Nosal-Korn/Ferry Agreements”) into which Nosal voluntarily
14 entered with Korn/Ferry, Nosal agreed to serve as an independent contractor to Korn/Ferry from
15 November 1, 2004, through October 15, 2005. Among other promises, Nosal agreed to
16 cooperate with Korn/Ferry on certain ongoing executive search assignments and agreed not to
17 perform executive search, executive placement, management assessment, or management audit
18 services on behalf of any other entity but Korn/Ferry during the period that the Nosal-Korn/Ferry
19 Agreements were in effect. With respect to Korn/Ferry confidential materials and information,
20 Nosal also agreed that he would not use or disclose any customer lists, business secrets, or any
21 other information not generally known in the industry concerning the business or policies of
22 Korn/Ferry. In exchange, Korn/Ferry was to pay Nosal \$25,000 per month and was to pay Nosal
23 lump-sum payments on or before July 31, 2005, and on or before October 15, 2005. Nosal was
24 also eligible to receive referral payments for referring work to Korn/Ferry during the period that
25 the Nosal-Korn/Ferry Agreements were in effect.

26 Other Individuals

27 3. Becky Christian was employed by Korn/Ferry in its Silicon Valley office and
28 elsewhere from approximately September 1999 until approximately January 2005. After she left

1 Korn/Ferry, Christian set up an executive search firm known as Christian & Associates LLC. In
2 truth, however, Christian worked with the defendant Nosal in setting up Nosal's executive search
3 firm and either assisted, or was assisted by, Nosal in conducting executive searches. In general,
4 Christian and Nosal agreed that she would retain 20% of the revenues from searches that she
5 conducted with Nosal and that she would provide Nosal with the remaining 80%.

6 4. The individual identified herein as "J.F." was employed by Korn/Ferry from
7 approximately December 1997 to approximately August 2005. J.F. served as the defendant
8 Nosal's executive assistant prior to Nosal's departure from Korn/Ferry. After Nosal left
9 Korn/Ferry, J.F. continued to be employed by Korn/Ferry but assisted Nosal in setting up Nosal's
10 new executive search firm.

11 5. The individual identified herein as "M.J." was employed by Korn/Ferry from
12 approximately January 2001 to approximately March 2005. After leaving Korn/Ferry, M.J.
13 worked with the defendant Nosal in setting up Nosal's executive search firm and either assisted,
14 or was assisted by, Nosal in conducting executive searches during approximately the spring and
15 summer of 2005. Nosal asked M.J. to establish a company in M.J.'s name, so that this company
16 — like Christian & Associates LLC — could be used as a vehicle for Nosal to continue to
17 conduct executive search activities until the expiration of the Nosal-Korn/Ferry Agreements.
18 Nosal proposed the same 80/20 split in revenues with M.J. that Nosal had adopted with
19 Christian.

20 The Searcher Database

21 6. In performing their work, Korn/Ferry employees relied heavily on the "Searcher"
22 database, a highly confidential and proprietary database of executives and companies. This
23 database also contained information regarding search engagements that Korn/Ferry had
24 conducted for clients in the past. Using the "Custom Report" feature of the Searcher database,
25 Korn/Ferry employees quickly could sort through information in the database to create targeted
26 reports on executives, companies, and prior search engagements for use in candidate
27 development for clients and in client presentations.

28 7. The information contained in the Searcher database regarding executives,

1 companies, and Korn/Ferry's prior search engagements was the product of the efforts of
2 hundreds of Korn/Ferry employees over many years. Korn/Ferry considered the Searcher
3 database to be one of the most comprehensive databases of executive candidates in the world.

4 8. The information in the Searcher database regarding Korn/Ferry's prior search
5 engagements included "source lists" (which were also referred to as "candidate lists"), generally
6 described as lists of candidates that Korn/Ferry presented to client companies with respect to
7 particular positions that those clients were trying to fill. Korn/Ferry considered these source lists
8 to be extremely valuable when initiating subsequent searches for executives for similar positions.

9
10 The Confidentiality of Information in the Searcher Database and the Scope of Korn/Ferry's
Authorization to its Employees to Use Its Computer System

11 9. Korn/Ferry undertook considerable measures to maintain the confidentiality of the
12 information contained in the Searcher database. These measures included controlling electronic
13 access to the Searcher database and controlling physical access to the computer servers that
14 contained the database. Korn/Ferry employees received unique usernames and created passwords
15 for use on the company's computer systems, including for use in accessing the Searcher database.
16 These usernames and passwords were intended to be used by the Korn/Ferry employee only.

17 10. Korn/Ferry required all of its employees — including the defendant David Nosal
18 — to enter into agreements that both explained the proprietary nature of the information
19 disclosed or made available to Korn/Ferry employees (including the information contained in the
20 Searcher database) and restricted the use and disclosure of all such information, except for
21 legitimate Korn/Ferry business. Nosal executed such an agreement on or about April 26, 1996.

22 11. Among other additional measures, Korn/Ferry also declared the confidentiality of
23 information in the Searcher database by placing the phrase "Korn/Ferry Proprietary and
24 Confidential" on every Custom Report generated from the Searcher database. Whenever an
25 individual used Searcher's Custom Report feature, the computer system displayed a notification
26 stating that "This product is intended to be used by Korn/Ferry employees for work on
27 Korn/Ferry business only." Further, when an individual logged into the Korn/Ferry computer

28 ///

1 system, that computer system displayed the following notification, in sum and substance:

2 This computer system and information it stores and processes are
 3 the property of Korn/Ferry. You need specific authority to access
 4 any Korn/Ferry system or information and to do so without the
 relevant authority can lead to disciplinary action or criminal
 prosecution. . . .

5 COUNT ONE: 18 U.S.C. § 371 — Conspiracy to Misappropriate, Receive, Possess, and
 6 Transmit Trade Secrets, Gain Unauthorized Access to a Protected
 7 Computer, and Traffic in a Password Allowing Unauthorized Access to a
 Protected Computer

8 12. The factual allegations in paragraphs 1 through 11 are re-alleged and incorporated
 9 herein as if set forth in full.

10 13. Beginning on a date unknown, and continuing to no later than August 2, 2005, in
 11 the Northern District of California, and elsewhere, the defendant,

12 DAVID NOSAL,

13 did knowingly and intentionally conspire and agree with other persons to commit the following
 14 offenses: misappropriation, receipt, possession, and transmission of trade secrets, in violation of
 15 18 U.S.C. §§ 1832(a)(1), 1832(a)(2) and 1832(a)(3); unauthorized access to a protected
 16 computer, in violation of 18 U.S.C. § 1030(a)(4); and trafficking in a password allowing
 17 unauthorized access to a protected computer, in violation of 18 U.S.C. § 1030(a)(6)(A).

18 MANNER AND MEANS OF THE CONSPIRACY

19 14. The defendant and co-conspirators knowingly, and with intent to defraud,
 20 obtained things of value from Korn/Ferry's computer system, including source lists and other
 21 information.

22 15. The defendant and co-conspirators stole, and without authorization knowingly
 23 took by fraud, artifice, and deception, trade secrets from Korn/Ferry's computer system,
 24 including source lists.

25 16. Individual co-conspirators and others obtained these trade secrets and other things
 26 of value from Korn/Ferry's computer system prior to termination of their employment with
 27 Korn/Ferry by using their own Korn/Ferry usernames and passwords, and did so without
 28 authorization and without permission.

1 17. After their separation from Korn/Ferry, the defendant and co-conspirators
2 obtained these trade secrets and other things of value from Korn/Ferry's computer system by
3 using, either directly or through J.F., J.F.'s Korn/Ferry username and password, and did so
4 without authorization and without permission.

5 18. The defendant and co-conspirators obtained things of value from Korn/Ferry's
6 computer system; misappropriated Korn/Ferry trade secrets; downloaded, copied, and duplicated
7 Korn/Ferry trade secrets; received and possessed stolen Korn/Ferry trade secrets; and transmitted
8 Korn/Ferry trade secrets to each other, all for the purpose of retaining clients and placing
9 candidates as part of their non-Korn/Ferry executive search activities.

10 OVERT ACTS COMMITTED IN FURTHERANCE OF THE CONSPIRACY

11 19. In furtherance of the conspiracy and to effect the objects thereof, the following
12 overt acts, among others, were committed in the Northern District of California, and elsewhere:

13 Chief Financial Officer Information from Korn/Ferry's Computer System

14 a. On or about April 11, 2005, Christian sent an e-mail to J.F. stating "It is to [sic]
15 difficult to explain the searcher run I would need to log in as you." In response, J.F. provided
16 Christian with her Korn/Ferry username and password. Thereafter, on or about April 12, 2005,
17 Christian used J.F.'s Korn/Ferry username and password to gain access to Korn/Ferry's computer
18 system. She then downloaded three Korn/Ferry source lists of chief financial officers ("CFOs")
19 from that computer system. These source lists originated from prior search engagements in
20 which Korn/Ferry had been retained to conduct searches for CFOs. Each source list was marked
21 "Korn/Ferry Proprietary & Confidential." At the time, Christian did not have authorization from
22 Korn/Ferry to access its computer system.

23 b. On or about April 12, 2005, Christian provided the defendant Nosal with the three
24 Korn/Ferry source lists of CFOs that she had downloaded earlier that day by sending them to him
25 in an e-mail. Nosal and Christian thereafter used some of the information in these source lists as
26 part of an executive search for a CFO they were conducting.

27 c. On or about April 21, 2005, M.J. sent the defendant Nosal and Christian an e-mail
28 with the subject line "CFO Names/Ideas," which e-mail contained a list of six CFOs with

1 associated contact information. In the e-mail, M.J. stated that the individuals listed were from
2 "the [Company A] CFO search." This was a search engagement on which Nosal and M.J. had
3 worked while at Korn/Ferry. Nosal later responded to M.J.'s e-mail, saying "thank you."

4 d. On or about April 25, 2005, Company B formally retained Christian & Associates
5 LLC to conduct a search for a CFO. Both the defendant Nosal and Christian worked on and
6 participated in this search.

7 e. On or about June 1, 2005, Christian sent an e-mail to two executives of Company
8 B with the subject line "CFO Update." The defendant Nosal was copied on this e-mail. This e-
9 mail stated, in part, "We wanted to give you an update as it relates to the CFO search," and then
10 discussed several possible candidates for the CFO position at Company B, among them, three
11 individuals who were listed on the source lists that Christian had sent to Nosal on or about April
12 12, 2005.

13 f. On or about July 12, 2005, using a computer at Nosal's new offices in San
14 Francisco, an individual remotely logged into Korn/Ferry's computer network using J.F.'s
15 Korn/Ferry username and password. Thereafter, among other activities, Christian downloaded a
16 Korn/Ferry list containing information regarding approximately 65 executives and a source list
17 from a prior Korn/Ferry search. During this log-in session, a query for information on at least
18 one of the candidates for the Company B CFO position was also run. At the time, Christian did
19 not have authorization from Korn/Ferry to access its computer system. In August 2005,
20 Company B announced that it had hired this candidate as its CFO.

21 g. Christian also sent two other e-mails to the defendant Nosal on April 12, 2005,
22 containing lists of CFOs in the medical industry in relation to a search that Nosal and Christian
23 were performing for another company. Information in each of these e-mails was "cut and pasted"
24 from a source list in Korn/Ferry's Searcher database.

25 Use of Position Specifications from Korn/Ferry's Computer System

26 h. On or about April 25, 2005, the defendant Nosal was retained by Company C to
27 conduct a search for a person to fill a senior vice president of human resources position. In an e-
28 mail dated April 25, 2005, the CEO of Company C informed Nosal that the CEO did not have a

1 job description for the subject position and asked Nosal to draft one. The e-mail stated:

2 David, you are on for the HR search. I don't have a job
3 description. You guys need to craft one and get me to
4 approve.....please make sure that the payment terms are the
aggressive ones you quoted. thx.

5 i. On or about April 27, 2005, Christian requested that J.F. obtain examples of
6 position specifications from Korn/Ferry's computer system. In response, J.F. e-mailed two such
7 examples to Christian. Christian forwarded the e-mail from J.F. to Nosal and M.J., with the new
8 subject line "[Company C] HR spec samples." Christian used one of those documents to draft a
9 position specification related to a search Nosal and she were doing for Company C. On April 28,
10 2005, Christian sent the CEO of Company C a position specification that was in large part
11 identical in sum and substance to a position specification that J.F. had earlier obtained from
12 Korn/Ferry's computer system. This e-mail was signed "David & Becky," and Nosal was copied
13 on this e-mail.

14 Other Instances of Obtaining Information from Korn/Ferry's Computer System

15 j. During approximately December 2004, immediately prior to her separation from
16 Korn/Ferry in approximately January 2005, Christian created and downloaded Searcher Custom
17 Reports containing over 3,000 records. Christian took copies of these reports with her when she
18 terminated her employment with Korn/Ferry. The defendant Nosal asked Christian to take these
19 items to populate his database for future executive searches.

20 k. On or about May 3, 2005, Christian sent an e-mail to the defendant Nosal and to
21 M.J. with an attachment, indicating that the attachment related to a search that was being
22 conducted for Company C. The attachment was a Searcher Custom Report spreadsheet
23 containing approximately 19 executive names with contact information. The header of the
24 spreadsheet contained the heading "Korn/Ferry International San Francisco." The defendant
25 Nosal responded in an e-mail the same day, saying "thanks."

26 l. On or about May 26, 2005, M.J. sent two e-mails to J.F. containing the names of a
27 total of approximately 17 individuals regarding whom J.F. was to obtain information from the
28 Searcher database. M.J. obtained some of these names from Nosal. In the second e-mail, M.J.

1 also requested information regarding a prior Korn/Ferry search engagement. In response to
2 M.J.'s e-mails, J.F. obtained each individual's information from the Searcher database and
3 obtained the information in that database regarding the prior Korn/Ferry search engagement
4 identified by M.J. J.F. then copied all of the files containing the requested information onto a
5 CD. J.F. later provided this CD to M.J. The defendant Nosal used some or all of the information
6 obtained from the Searcher database in a "pitch" meeting with representatives from Company D
7 in which Nosal was attempting to be retained by that company to conduct an executive search
8 and related activities.

9 m. On or about June 3, 2005, J.F. performed a Searcher query for human resource
10 managers working for various companies. In response to J.F.'s query, the Searcher database
11 generated a Custom Report yielding approximately 366 executives with their pertinent
12 information. J.F. then exported the Custom Report to a Microsoft Excel spreadsheet titled "Choc
13 Chip Cookie Recipes," and saved the file to her computer Desktop folder. J.F. then copied the
14 "Choc Chip Cookie Recipes" file onto a CD titled "ChocChip Cookies." J.F. later provided this
15 CD to M.J. for use in the Company C search.

16 n. On or about July 29, 2005, using M.J.'s computer located in Nosal's new offices
17 in San Francisco, J.F. remotely logged into Korn/Ferry's computer network with her Korn/Ferry
18 username and password. Once logged in, J.F. returned control of the computer to M.J. M.J. then
19 proceeded to query Korn/Ferry's Searcher database and download information, including 25
20 Korn/Ferry source lists, from that database onto the computer. At the time, M.J. did not have
21 authorization from Korn/Ferry to access its computer system.

22 All in violation of Title 18, United States Code, Section 371.

23 ///

24 ///

25 ///

26 ///

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28 ///

COUNTS TWO

THROUGH FOUR: 18 U.S.C. §§ 1030(a)(4), 1030(c)(3)(A) & 2 — Unauthorized Access to a Protected Computer with Intent to Defraud and Obtaining Something of Value and Aiding and Abetting

20. The factual allegations in paragraphs 1 through 11 and 13 through 19 are re-alleged and incorporated herein as if set forth in full.

21. On or about the dates set forth in the separate counts below, in the Northern District of California, and elsewhere, the defendant,

DAVID NOSAL,

did knowingly and with intent to defraud access a protected computer belonging to Korn/Ferry, without authorization, and by means of such conduct did further the intended fraud and obtain something of value, to wit, source lists and other information belonging to Korn/Ferry:

COUNT	DATE	ITEMS OBTAINED	ACCOUNT USED TO GAIN ACCESS
Two	April 12, 2005	Three Korn/Ferry source lists relating to prior searches for CFOs	Korn/Ferry computer user account of J.F.
Three	July 12, 2005	Information regarding at least one individual who was a candidate for Company B CFO position, a list containing the names and known contact information of approximately 65 executives, and a Korn/Ferry source list relating to a prior search	Korn/Ferry computer user account of J.F.
Four	July 29, 2005	25 Korn/Ferry source lists relating to prior searches	Korn/Ferry computer user account of J.F.

All in violation of Title 18, United States Code, Sections 1030(a)(4), 1030(c)(3)(A) and 2.

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COUNT FIVE: 18 U.S.C. §§ 1832(a)(2), 1832(a)(4) & 2 — Unauthorized Downloading, Copying, and Duplicating of Trade Secrets and Aiding and Abetting and Attempt

22. The factual allegations in paragraphs 1 through 11, paragraphs 13 through 19, and paragraph 21 are re-alleged and incorporated herein as if set forth in full.

23. On or about April 12, 2005, in the Northern District of California, and elsewhere, the defendant,

DAVID NOSAL,

with the intent to convert trade secrets belonging to Korn/Ferry, specifically, three Korn/Ferry source lists relating to prior searches for CFOs, as referred to in paragraphs 19.a and 19.b, to the economic benefit of someone other than Korn/Ferry, which trade secrets were related to and included in products that were produced for and placed in interstate and foreign commerce, did knowingly and without authorization download, copy, and duplicate such information from Korn/Ferry's computer system, and did attempt to do so, intending and knowing that such acts would injure Korn/Ferry.

All in violation of Title 18, United States Code, Sections 1832(a)(2), 1832(a)(4), and 2.

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COUNT SIX: 18 U.S.C. §§ 1832(a)(3), 1832(a)(4) & 2 — Unauthorized Receipt and Possession of Stolen Trade Secrets and Aiding and Abetting and Attempt

24. The factual allegations in paragraphs 1 through 11, paragraphs 13 through 19, and paragraph 21 are re-alleged and incorporated herein as if set forth in full.

25. On or about April 12, 2005, in the Northern District of California, and elsewhere, the defendant,

DAVID NOSAL,

with the intent to convert trade secrets belonging to Korn/Ferry, specifically, three Korn/Ferry source lists relating to prior searches for CFOs and information regarding CFOs that was “cut and pasted” from a source list in Searcher, as referred to in paragraphs 19.a, 19.b, and 19.g, to the economic benefit of someone other than Korn/Ferry, which trade secrets were related to and included in products that were produced for and placed in interstate and foreign commerce, did knowingly receive and possess such information, and did attempt to do so, knowing the same to have been stolen and appropriated, obtained, and converted without authorization, intending and knowing that such acts would injure Korn/Ferry.

All in violation of Title 18, United States Code, Sections 1832(a)(3), 1832(a)(4), and 2.


DATED:


A TRUE BILL.

February 28, 2013


FOREPERSON

MELINDA HAAG
United States Attorney


MIRANDA KANE
Chief, Criminal Division

(Approved as to form: )

AUSA WALDINGER